

Assembly Bill No. 83

Passed the Assembly June 25, 2009

Chief Clerk of the Assembly

Passed the Senate June 22, 2009

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2009, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Section 1799.102 of the Health and Safety Code, relating to personal liability, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 83, Feuer. Torts: personal liability immunity.

Existing law provides that any person who in good faith, and not for compensation, renders emergency medical care at the scene of an emergency shall not be liable for any civil damages resulting from any act or omission.

This bill would instead provide that medical, law enforcement, and emergency personnel who in good faith, and not for compensation, render emergency medical or nonmedical care at the scene of an emergency shall not be liable for any civil damages resulting from any act or omission.

This bill would also provide that any person, not including medical, law enforcement, and emergency personnel, who in good faith, and not for compensation, renders emergency medical or nonmedical care or assistance at the scene of an emergency shall not be liable for any civil damages resulting from any act or omission, as long as that act or omission does not constitute gross negligence or willful or wanton misconduct.

This bill would declare that it is to take effect immediately as an urgency statute.

The people of the State of California do enact as follows:

SECTION 1. Section 1799.102 of the Health and Safety Code is amended to read:

1799.102. (a) No person who in good faith, and not for compensation, renders emergency medical or nonmedical care at the scene of an emergency shall be liable for any civil damages resulting from any act or omission. The scene of an emergency shall not include emergency departments and other places where medical care is usually offered. This subdivision applies only to

the medical, law enforcement, and emergency personnel specified in this chapter.

(b) (1) It is the intent of the Legislature to encourage other individuals to volunteer, without compensation, to assist others in need during an emergency, while ensuring that those volunteers who provide care or assistance act responsibly.

(2) Except for those persons specified in subdivision (a), no person who in good faith, and not for compensation, renders emergency medical or nonmedical care or assistance at the scene of an emergency shall be liable for civil damages resulting from any act or omission other than an act or omission constituting gross negligence or willful or wanton misconduct. The scene of an emergency shall not include emergency departments and other places where medical care is usually offered. This subdivision shall not be construed to alter existing protections from liability for licensed medical or other personnel specified in subdivision (a) or any other law.

(c) Nothing in this section shall be construed to change any existing legal duties or obligations, nor does anything in this section in any way affect the provisions in Section 1714.5 of the Civil Code, as proposed to be amended by Senate Bill 39 of the 2009–10 Regular Session of the Legislature.

(d) The amendments to this section made by the act adding subdivisions (b) and (c) shall apply exclusively to any legal action filed on or after the effective date of that act.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

Because the state has long encouraged Californians to assist others facing danger in an emergency, and the ability to do so without fear of potential suit has been thrown into question by the recent California Supreme Court decision of *Van Horn v. Watson*, (2008) 45 Cal.4th 322, decided on December 18, 2008, this legislation clarifying the intent of the Legislature needs to go into effect immediately so as to avoid any confusion in this important area of the law.

Approved _____, 2009

Governor